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IN THE UNITED STATES DISTRICT COURT**FOR THE NORTHERN DISTRICT OF ILLINOIS (EASTERN DIVISION)**TS Merchandising Ltd., a British Virgin Islands
corporation, and TS Production LLC, a Hungarian
limited liability company,

Plaintiffs,

vs.

Dan and Loretta Hollings, Arizona residents, and
Web Services, LLC, an Arizona limited liability
company,

Defendants.

Case No.

COMPLAINTPlaintiffs TS Merchandising Ltd and TS Production LLC, for their complaint against
defendants Dan and Loretta Hollings and Web Services LLC, allege as follows:

THE PARTIES

1
2 1. Plaintiff TS Merchandising Ltd (“TS Merchandising”) is a British Virgin Islands
3 corporation with its principal place of business in Chicago, Illinois.

4 2. Plaintiff TS Production LLC (“TS Production”) is a Hungarian limited liability
5 corporation that does business in Illinois.

6 3. Defendant Dan Hollings (“Hollings”) is an Arizona resident. At all times material
7 hereto, Hollings, who is married to defendant Loretta Hollings, was acting on behalf of their
8 marital community.

9 4. Defendant Loretta Hollings is an Arizona resident and is a named defendant only
10 to the extent that she has an interest in the marital community.

11 5. Defendant Web Services, LLC (“Web Services”) is an Arizona limited liability
12 company whose sole member is Hollings.

13 **JURISDICTION AND VENUE**

14 6. TS Production holds the intellectual property rights for *The Secret*, which is a film
15 that has been viewed by millions around the world and has also been released as a book with
16 more than seven million copies in print. TS Production has an operating subsidiary, Prime Time
17 US Inc. (“Prime Time”) that conducts U.S.-based business operations relating to *The Secret* out
18 of Chicago, Illinois and has employees located in Chicago, Illinois.

19 7. TS Merchandising operates *The Secret* website out of its principal place of
20 business in Chicago, Illinois. Hollings was engaged to perform website consulting services for
21 *The Secret* website in or around September 2005 through February 2007.

22 8. In the course of his 17-month engagement, Hollings continuously interacted and
23 communicated with TS Merchandising and Prime Time employees located in Chicago, Illinois to
24 discuss *The Secret* website and related issues. For example, Hollings traveled to Chicago,
25 Illinois in December 2006 to meet with TS Merchandising and Prime Time employees to discuss
26 website operations. Hollings also frequently participated in telephone and e-mail
27 communications with TS Merchandising and Prime Time representatives located in Chicago,
28 Illinois.

9. Hollings also sent invoices for his work on *The Secret* website to TS Merchandising in Chicago, Illinois, and he received compensation from funds transferred from bank accounts located in Chicago, Illinois.

10. A substantial part of the acts and events giving rise to the claims set forth herein took place fully, or in substantial part, in Chicago, Illinois.

11. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331 and 1332. Venue is proper pursuant to 28 U.S.C. § 1391.

GENERAL ALLEGATIONS

The Secret

12. *The Secret* is a film that has been viewed by millions around the world and has also been released as a book with more than seven million copies in print. *The Secret* explains with simplicity the philosophy of the law that governs all lives and offers the knowledge of how to create a joyful life.

13. TS Production holds the intellectual property rights to *The Secret* book and movie, including trademark rights and copyrights. TS Production has invested extensively in promoting the marks for *The Secret* and protects its investment.

14. TS Production holds U.S Copyright Registrations for *The Secret* original and extended edition films, book, audio CD and www.theseecret.tv website.

15. TS Production is the owner of U.S. Trademark Registration No. 3,312,874, Australian Trademark Registration No. 1067375, and International Trademark Registration No. 900573 for, and has common law rights in, the text mark for *The Secret*.

16. TS Production is also the owner of U.S. Trademark Application No. 79/032, Australian Trademark Registration No. 1079591, and International Trademark Registration No. 908662 for, and has common law rights in, the logo mark for *The Secret*.

17. TS Production also has trademark applications pending under the Madrid Protocol in Brazil, Argentina, Canada, Mexico, Israel, South Africa, and Taiwan, and has received Certificates of Registration under the Madrid Protocol for *The Secret* text mark and logo mark in China, the European Community, Norway, and Switzerland.

Dan Hollings' Engagement and Marketing Role with *The Secret*.

18. In or around September 2005, Hollings was engaged to perform website management services for *The Secret*. TS Merchandising operates *The Secret* website and paid for Hollings' services.

19. Prior to his engagement, Hollings had no previous knowledge of or involvement with the philosophy set forth in *The Secret*, called the Law of Attraction, and his knowledge of the philosophy and *The Secret* is based solely through his engagement by TS Merchandising.

20. Before Hollings was even engaged, *The Secret's* marketing campaign strategy had already been created by a team of professionals.

21. Much of the tremendous success of *The Secret* resulted from appearances on national programs such as "Larry King Live" in November 2006, "The Ellen Degeneres Show" in December 2006, and "The Oprah Winfrey Show" in February 2007.

22. Hollings did not participate in any non-website-based marketing for *The Secret*. His role was limited to a website project manager, retained to assist with website development and search engine optimization.

Hollings Begins to Surreptitiously Profit From *The Secret*.

Hollings Receives Undisclosed Vendor Commissions Since March 2006.

23. As part of his engagement, Hollings was responsible for identifying vendor services relating to *The Secret* website and providing vendor recommendations to TS Merchandising. In this capacity, Hollings owed TS Merchandising the fiduciary duties of loyalty and due care that an agent owes to its principal.

24. Upon information and belief, Hollings negotiated and received an undisclosed 5% side-commission from a vendor that he recommended to TS Merchandising. Upon information and belief, this commission was a referral fee for procuring TS Merchandising as a customer for the vendor and is based on the amounts paid by TS Merchandising to the vendor.

25. Upon information and belief, Hollings has received at least \$42,304.18 in undisclosed vendor payments from March to October 2006 and January to February 2007, and Hollings continues to receive side-payments from this vendor.

1 26. Hollings' focus on himself at the expense of *The Secret* and his failure to disclose
2 his side efforts related to *The Secret* is not in line with – and therefore working against – the
3 philosophy of *The Secret*.

4 ***Hollings Markets His Products As Affiliated With The Secret.***

5 27. Sometime in or around December 2006 – and after he had been pushing TS to
6 enter into an agreement with Amazon.com to sell *The Secret* products online – Hollings
7 independently released at least two CDs on Amazon.com that were titled “The Secret
8 Symphony” and “Journey to The Secret: Stone, Strings & Udu.” Hollings' products were
9 immediately bundled, upon information and belief, at Hollings' request, with *The Secret* DVD.

10 28. Upon information and belief, Hollings also personally wrote a “review” for “The
11 Secret Symphony,” calling it the “Secret Combination-set.” Based on the information to which
12 he had access in the course of his engagement, Hollings was aware that the soundtrack from *The*
13 *Secret* movie was not then being released.

14 29. Hollings is experienced in Internet search optimization and has knowledge of
15 search engine tagging methods to bring up his products in a search for *The Secret* on the Internet
16 and, in particular, on Amazon.com.

17 30. Although Hollings has agreed to change the titles of his CD products and to delete
18 references to *The Secret* pertaining to the products, these and other references related to *The*
19 *Secret* remain to this day and appear when conducting searches on the Internet.

20 31. Upon information and belief, Hollings is still taking active steps to continue to
21 create this confusion.

22 ***Hollings Seeks to Capitalize on The Secret Trademarks.***

23 32. As part of his engagement, Hollings was responsible for registering, obtaining and
24 monitoring domain names, URLs and/or website addresses related to *The Secret*. In this
25 capacity, Hollings owed TS Merchandising the fiduciary duties of loyalty and due care that an
26 agent owes to its principal.

27 33. Upon information and belief, Hollings began to collect such URLs, domain names
28 and website addresses relating to *The Secret* for his own personal use, seeking to capitalize on

1 the fame of *The Secret* trademarks and the goodwill associated therewith. For example, Hollings
2 registered the domain name know-more-secrets.com on or about March 4, 2007.

3 34. Upon information and belief Hollings owns, possesses and/or controls other
4 websites relating to *The Secret*, either in his own name or that of his company, Web Services.

5 **Hollings Inflates His Role with *The Secret*.**

6 35. Sometime in February 2007, TS Merchandising and TS Production discovered
7 that Hollings had affiliated himself with a Law of Attraction event, marketing himself as the
8 “sole strategist” behind *The Secret*.

9 36. Hollings has marketed, and is continuing to market, himself throughout the
10 Internet as: the “founder,” “sole internet marketing strategist and web consultant,” “marketing
11 strategist and developer,” and “mastermind who planned and implemented the record shattering
12 online marketing campaign” of *The Secret*.

13 37. Hollings has also created a website with deceptively similarly marks as *The Secret*
14 and provides a link to purchase *The Secret* on Amazon.com. A true and correct printout of the
15 home page of know-more-secrets.com is attached hereto as **Exhibit A**.

16 38. Hollings’ conduct has damaged *The Secret*, TS Merchandising, TS Production
17 irreparably and in an amount to be determined at trial, but exceeding the jurisdictional minimum
18 amount of this Court for diversity jurisdiction.

19 **Hollings Demands Further Compensation.**

20 39. Hollings’ engagement was terminated as of February 28, 2007.

21 40. From October 2005 through February 2007, Hollings was paid \$8,000 per month,
22 as well as a \$50,000 advance in October 2006, and a holiday bonus of \$8,000, for a total of
23 \$194,000 for 17 months of service.

24 41. Since his termination, Hollings has demanded further compensation for his
25 website management services, based on an alleged compensation agreement with TS
26 Merchandising.

FIRST CLAIM FOR RELIEF

**Trademark Infringement
(15 U.S.C. § 1114)**

42. TS Production and TS Merchandising reallege and incorporate by reference the allegations above as if fully set forth herein.

43. TS Production owns International Trademark Registrations for *The Secret*.

44. Registration for such marks is incontestable in accordance with the provisions of 15 U.S.C. § 1065. It is conclusive proof of: (a) the validity of the marks; (b) TS Production's ownership of the marks; and (c) TS Productions exclusive right to use the marks throughout the United States.

45. Hollings and, upon information and belief, Web Services' bad-faith operation and use of URLs, domain names and website addresses such as www.know-more-secrets.com and postings on other Internet websites, such as Amazon.com, on which Hollings claims to be the sole marketing strategist for *The Secret*, and on which defendants' sell, offer for sale, advertise and distribute products or services under marks that are at a minimum confusingly similar to those of *The Secret*, are likely to cause confusion, mistake or deception as to the source of the websites' services and/or affiliation with *The Secret*, and thereby constitute trademark infringement in violation of § 43 of the United States Trademark Act of 1946, as amended, 15 U.S.C. §1114 *et. seq.*

46. The aforesaid willful actions of Hollings and, upon information and belief, Web Services have caused and, unless enjoined, will continue to cause damage and irreparable injury to *The Secret*, for which there is no adequate remedy at law.

47. In addition to the irreparable injury described herein, as a direct and proximate result of the conduct described herein, TS Production and TS Merchandising have sustained, and will continue to sustain, actual and/or consequential damages which exceed the jurisdictional minimum amount of the Court for diversity jurisdiction, and for which TS Production and TS Merchandising are entitled to recover such damages in an amount to be determined at trial.

SECOND CLAIM FOR RELIEF

**Unfair Competition, False Designation of Origin, False Advertising and Descriptions
(15 U.S.C. § 1125(a))**

48. TS Production and TS Merchandising reallege and incorporate by reference the allegations above as if fully set forth herein.

49. Hollings' and, upon information and belief, Web Services' bad-faith operation and use of URLs, domain names, and website addresses such as www.know-more-secrets.com and postings on other Internet websites, such as Amazon.com, on which Hollings claims to be the sole marketing strategist for *The Secret*, and on which defendants' sell, offer for sale, advertise and distribute products or services under marks that are at a minimum confusingly similar to those of *The Secret*, constitute unfair competition, false designation of origin, false advertising, or misleading descriptions of fact that wrongly and falsely designate the services and/or products sold by Hollings as originating with, or as being sponsored by, approved of, or otherwise connected with *The Secret*, which deception has or will likely influence consumer purchasing decisions, in violation of the Lanham Act, 15 U.S.C. § 1125(a).

50. The aforesaid willful actions of Hollings and, upon information and belief, Web Services have caused and, unless enjoined, will continue to cause damage and irreparable injury to *The Secret*, by diversion of sales and/or lessening of goodwill associated with *The Secret* products, for which there is no adequate remedy at law.

51. In addition to the irreparable injury described herein, as a direct and proximate result of the conduct described herein, TS Merchandising and TS Production have sustained, and will continue to sustain, actual and/or consequential damages which exceed the jurisdictional minimum amount of the Court for diversity jurisdiction, and for which TS Merchandising and TS Production are entitled to recover such damages in an amount to be determined at trial.

THIRD CLAIM FOR RELIEF

Common Law Unfair Competition

52. TS Merchandising and TS Production reallege and incorporate by reference the allegations above as if fully set forth herein.

1 53. Hollings' and, upon information and belief, Web Services' bad-faith operation
2 and use of URLs, domain names, and website addresses such as www.know-more-secrets.com
3 and postings on other Internet websites, such as Amazon.com, on which Hollings claims to be
4 the sole marketing strategist for *The Secret*, and on which defendants' sell, offer for sale,
5 advertise and distribute products or services under marks that are at a minimum confusingly
6 similar to those of *The Secret*, constitute unfair competition under the common law of various
7 states, including Illinois and Arizona.

8 54. The aforesaid willful actions of Hollings and, upon information and belief, Web
9 Services, have caused and, unless enjoined, will continue to cause damage and irreparable injury
10 to *The Secret*, by diversion of sales and/or lessening of goodwill associated with *The Secret*
11 products, for which there is no adequate remedy at law.

12 55. In addition to the irreparable injury described herein, as a direct and proximate
13 result of the conduct described herein, TS Merchandising and TS Production have sustained, and
14 will continue to sustain, actual and/or consequential damages which exceed the jurisdictional
15 minimum amount of the Court for diversity jurisdiction, and for which TS Merchandising and
16 TS Production are entitled to recover such damages in an amount to be determined at trial.

17 **FOURTH CLAIM FOR RELIEF**

18 **Trademark Dilution**
19 **(15 U.S.C. § 1125(c))**

20 56. TS Merchandising and TS Production reallege and incorporate by reference the
21 allegations above as if fully set forth herein.

22 57. Hollings and, upon information and belief, Web Services, by wrongfully using
23 *The Secret's* family of trademarks in commerce, is tarnishing, blurring, diluting and disparaging
24 *The Secret's* reputation, goodwill and trademarks in local, interstate and international commerce.

25 58. Hollings' and, upon information and belief, Web Services' acts are likely to
26 deprive TS Production of the benefits attached to *The Secret* family of trademarks, injure *The*
27 *Secret's* business reputation and dilute the distinctive quality of *The Secret's* well-known
28

1 trademarks in violation of Section 43(c) of the United States Trademark Act of 1946, as
2 amended, 15 U.S.C. § 1125(c).

3 59. The aforesaid willful actions of Hollings and, upon information and belief, Web
4 Services, have caused and, unless enjoined, will continue to cause damage and irreparable injury
5 to *The Secret*, by diversion of sales and/or lessening of goodwill associated with *The Secret*
6 products, for which there is no adequate remedy at law.

7 60. In addition to the irreparable injury described herein, as a direct and proximate
8 result of the conduct described herein, TS Production has sustained, and will continue to sustain,
9 actual and/or consequential damages which exceed the jurisdictional minimum amount of the
10 Court for diversity jurisdiction, and for which TS Production is entitled to recover such damages
11 in an amount to be determined at trial.

12 **FIFTH CLAIM FOR RELIEF**

13 **Violation of the Anticybersquatting Consumer Protection Act**
14 **(15 U.S.C. § 1125(d))**

15 61. TS Merchandising and TS Production reallege and incorporate by reference the
16 allegations above as if fully set forth herein.

17 62. Hollings' and, upon information and belief, Web Services' bad-faith registration
18 of URLs, domain names and website addresses, which are at a minimum confusingly similar to
19 *The Secret*'s registered and common law trademarks, in addition to the unauthorized use of *The*
20 *Secret*'s family of trademarks on various websites owned, controlled, possessed and/or registered
21 by defendants, constitute violations of the Anticybersquatting Consumer Protection Act.

22 63. The aforesaid willful actions of Hollings and, upon information and belief, Web
23 Services have caused and, unless enjoined, will continue to cause damage and irreparable injury
24 to *The Secret*, for which there is no adequate remedy at law.

25 64. In addition to the irreparable injury described herein, as a direct and proximate
26 result of the conduct described herein, TS Merchandising and TS Production have sustained, and
27 will continue to sustain, actual and/or consequential damages which exceed the jurisdictional
28

1 minimum amount of the Court for diversity jurisdiction, and for which TS Merchandising and
2 TS Production are entitled to recover such damages in an amount to be determined at trial.

3 **SIXTH CLAIM FOR RELIEF**

4 **Breach of Fiduciary Duty**

5 65. TS Merchandising and TS Production reallege and incorporate by reference the
6 allegations above as if fully set forth herein.

7 66. A fiduciary relationship existed between Hollings and TS Merchandising based
8 on Hollings' status as a consultant for *The Secret* website, in which capacity he often acted as an
9 agent for TS Merchandising.

10 67. As a fiduciary, Hollings owes TS Merchandising a fiduciary duty of loyalty and
11 fiduciary duty of care to act in the best interests of the company.

12 68. Hollings breached his duties to TS Merchandising by, among other things, the
13 acts described above, including, but not limited to, his negotiation and receipt of an undisclosed
14 5% commission from a vendor of TS Merchandising that was recommended by Hollings.

15 69. The wrongful acts described above have proximately injured and impaired, and
16 continue to proximately injure and impair, TS Merchandising.

17 70. As a direct and proximate result of Hollings' various breaches of his fiduciary
18 duties, TS Merchandising sustained, and continues to sustain, immediate and irreparable harm
19 and injury including, but not limited to, losses in revenues, loss of profits, loss of goodwill, loss
20 of business relations with existing and future business prospects, and loss of competitive
21 business advantage, opportunity and/or expectancy.

22 71. There is a substantial risk that Hollings will continue to irreparably injure TS
23 Merchandising, for which TS Merchandising has no adequate remedy at law, unless he is
24 enjoined therefrom.

25 72. In addition to the irreparable injury described herein, as a direct and proximate
26 result of the conduct described herein, TS Merchandising has sustained, and will continue to
27 sustain, actual and/or consequential damages which exceed the jurisdictional minimum amount
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1 of the Court for diversity jurisdiction, and for which TS Merchandising is entitled to recover
 2 such damages in an amount to be determined at trial.

3 **SEVENTH CLAIM FOR RELIEF**

4 **Declaratory Relief**

5 73. TS Merchandising and TS Production reallege and incorporate by reference the
 6 allegations above as if fully set forth herein.

7 74. There exists a justiciable dispute concerning the rights and obligations of Hollings
 8 to further compensation from TS Merchandising for his work on *The Secret* website from
 9 October 2005 through February 2007.

10 75. In taking his positions and other actions, Hollings is interfering with the
 11 operations of *The Secret*.

12 76. Pursuant to Fed. R. Civ. P. 57, TS Merchandising seeks a declaration from this
 13 Court that: (i) TS Merchandising fully and adequately compensated Hollings in the amount of
 14 \$194,000 for the value of his services through February 2007; and (ii) Hollings is entitled to no
 15 further compensation based on any obligation, contractual or otherwise, for any and all services
 16 that he performed for *The Secret* during his engagement.

17 **WHEREFORE**, TS Production LLC and TS Merchandising Ltd. request that judgment
 18 be entered in their favor, and against defendants, as follows:

19 A. That defendants be ordered to transfer any and all registrations for domain names,
 20 URLs and/or website addresses to TS Merchandising;

21 B. That defendants be directed to account and pay to TS Merchandising and TS
 22 Production all damages suffered by each of them as a result of the wrongful conduct described
 23 herein, including violations of the Lanham Act, Trademark Act, Anticybersquatting Protection
 24 Act, state statutes and common law, as well as to account for all gains, profits and advantages
 25 derived by any such wrongful conduct;

26 C. That such damages caused by defendants be trebled in accordance with 15 U.S.C.
 27 § 1117 because their infringement of *The Secret* marks is intentional, willful, and malicious, and
 28

1 therefore warrants enhanced damages and/or punitive damages as the Court may find
2 appropriate;

3 D. For an order preliminarily and permanently enjoining defendants from the
4 unlawful conduct complained of herein, or, in the alternative, for damages in an amount to be
5 proven at trial;

6 E. For an award of all of plaintiffs' costs and expenses incurred in connection with
7 the action, including all reasonable attorneys' fees, pursuant to the federal and state statutory
8 authority identified herein;

9 F. For pre-judgment and post-judgment interest at the maximum rate allowed by
10 law; and

11 G. For such other relief as may be deemed appropriate by the Court.

12 **RESPECTFULLY SUBMITTED** this 16th day of November, 2007.

13
14 /s/ Christopher I. Cedillo
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